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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह असग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW

(Legislative Department)

New Delhi, the 22nd November, 1970|Agrahayana 1, 1892 (Saka)

The following President's Act is published for general information:—

THE WEST BENGAL (PREVENTION OF VIOLENT ACTIVITIES) ACT, 1970

No. 19 OF 1970

Enacted by the President in the Twenty-first Year of the Republic of India.

An Act to provide for detention with a view to preventing violent activities and for matters connected therewith.

In exercise of the powers conferred by section 3 of the West Bengal State Legislature (Delegation of Powers) Act, 1970, the President is pleased to enact as follows:— 17 of 1970.

Short title, extent and commencement.

1. (*1*) This Act may be called the West Bengal (Prevention of Violent Activities) Act, 1970.

(*2*) It extends to the whole of the State of West Bengal.

(*3*) It shall come into force at once.

Defi-nition.

2. In this Act, unless the context otherwise requires, "detention order" means an order made under section 3.

Power to make orders detaining certain persons.

3. (*1*) The State Government may, if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to the security of the State or the maintenance of public order, it is necessary so to do, make an order directing that such person be detained.

(2) For the purposes of sub-section (1), the expression "acting in any manner prejudicial to the security of the State or the maintenance of public order" means—

(a) using, or instigating any person by words, either spoken or written, or by signs or by visible representations or otherwise, to use, any lethal weapon—

(i) to promote or propagate any cause or ideology, the promotion or propagation of which affects, or is likely to affect, adversely the security of the State or the maintenance of public order; or

(ii) to overthrow or to overawe the Government established by law in India.

Explanation.—In this clause, "lethal weapon" includes fire-arms, explosive or corrosive substances, swords, spears, daggers, bows and arrows; or

(b) committing mischief, within the meaning of section 425 of the Indian Penal Code, by fire or any explosive substance on any property of Government or any local authority or any corporation owned or controlled by Government or any University or other educational institution or on any public building, where the commission of such mischief disturbs, or is likely to disturb, public order; or 45 of 1860.

(c) causing insult to the Indian National Flag or to any other object of public veneration, whether by mutilating, damaging, burning, defiling, destroying or otherwise, or instigating any person to do so; or

Explanation.—In this clause, "object of public veneration" includes any portrait or statue of an eminent Indian, installed in a public place as a mark of respect to him or to his memory; or

(d) committing, or instigating any person to commit, any offence punishable with death or imprisonment for life or imprisonment for a term extending to seven years or more or any offence under the Arms Act, 1959 or the Explosive Substances Act, 1908, where the commission of such offence disturbs, or is likely to disturb, public order; or 54 of 1959. 6 of 1908.

(e) in the case of a person referred to in clauses (a) to (f) of section 110 of the Code of Criminal Procedure, 1898, committing any offence punishable with imprisonment where the commission of such offence disturbs, or is likely to disturb, public order. 5 of 1898.

(3) Any of the following officers, namely:—

(a) District Magistrates,

(b) Additional District Magistrates specially empowered in this behalf by the State Government,

(c) in the Presidency-town of Calcutta, the Commissioner of Police, Calcutta,

may, if satisfied as provided in sub-section (1), exercise the power conferred by the said sub-section.

(4) When any order is made under this section by an officer specified in sub-section (3), he shall forthwith report the fact to the State Government together with the grounds on which the order has been made and such other particulars as in his opinion have a bearing on the matter and no such order shall remain in force for more than twelve days after the making thereof unless, in the meantime, it has been approved by the State Government.

(5) When any order is made or approved by the State Government under this section, the State Government shall, as soon as may be, report the fact to the Central Government together with the grounds on which the order has been made and such other particulars as, in the opinion of the State Government, have a bearing on the necessity for the order.

Execution of detention orders.

4. A detention order may be executed at any place in the State of West Bengal in the manner provided for the execution of warrants of arrest under the Code of Criminal Procedure, 1898.

5 of 1898.

Power to regulate place and conditions of detention.

5. Every person in respect of whom a detention order has been made shall be liable—

(a) to be detained in such place and under such conditions, including conditions as to maintenance, discipline and punishment for breaches of discipline, as the State Government may, by general or special order, specify; and

(b) to be removed from one place of detention to another place of detention, within the State of West Bengal, by order of the State Government.

Detention orders not to be invalid or inoperative on certain grounds.

6. No detention order shall be invalid or inoperative merely by reason—

(a) that the person to be detained thereunder, though within the State of West Bengal, is outside the limits of the territorial jurisdiction of the officer making the order; or

(b) that the place of detention of such person, though within the State of West Bengal, is outside the limits of the territorial jurisdiction of the officer making the order.

Powers in relation to absconding persons.

7. (1) If the State Government or an officer specified in sub-section (3) of section 3, as the case may be, has reason to believe that a person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed, that Government or officer may—

(a) make a report in writing of the fact to a Presidency Magistrate or a Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides; and thereupon the provisions of sections 87, 88 and 89 of the Code of Criminal Procedure, 1898,

5 of 1898.

shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the Magistrate;

(*b*) by order notified in the Official Gazette direct the said person to appear before such officer, at such place and within such period as may be specified in the order; and if the said person fails to comply with such direction, he shall, unless he proves that it was not possible for him to comply therewith and that he had, within the period specified in the order, informed the officer mentioned in the order of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(*2*) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, every offence under clause (*b*) of sub-section (*1*) shall be cognizable. 5 of 1898.

Grounds of order of detention to be disclosed to persons affected by the order.

8. (*1*) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but not later than five days from the date of detention, communicate to him the grounds on which the order has been made, and shall afford him the earliest opportunity of making a representation against the order to the State Government.

(*2*) Nothing in sub-section (*1*) shall require the authority to disclose facts which it considers to be against the public interest to disclose.

Constitution of Advisory Boards.

9. (*1*) The State Government shall, whenever necessary, constitute one or more Advisory Boards for the purposes of this Act.

(*2*) Every such Board shall consist of three persons who are, or have been, or are qualified to be appointed as, Judges of a High Court, and such persons shall be appointed by the State Government.

(*3*) The State Government shall appoint one of the members of the Advisory Board who is or has been a Judge of a High Court to be its Chairman.

Reference to Advisory Boards.

10. In every case where a detention order has been made under this Act, the State Government shall, within thirty days from the date of detention under the order, place before the Advisory Board, constituted by it under section 9, the grounds on which the order has been made and the representation, if any, made by the person affected by the order, and in case where the order has been made by an officer specified in sub-section (*3*) of section 3, also the report made by such officer under sub-section (*4*) of section 3.

Procedure of Advisory Boards.

11. (*1*) The Advisory Board shall, after considering the materials placed before it and, after calling for such further information as it may deem necessary from the State Government or from any person called for the purpose through the State Government or from the person concerned, and if in any particular case it considers it essential so to do or

if the person concerned desires to be heard, after hearing him in person, submit its report to the State Government within ten weeks from the date of detention.

(2) The report of the Advisory Board shall specify in a separate part thereof the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the person concerned.

(3) When there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board.

(4) Nothing in this section shall entitle any person against whom a detention order has been made to appear by any legal practitioner in any matter connected with the reference to the Advisory Board, and the proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential.

Action upon the report of Advisory Board.

12. (1) In any case where the Advisory Board has reported that there is, in its opinion, sufficient cause for the detention of a person, the State Government may confirm the detention order and continue the detention of the person concerned for such period as it thinks fit.

(2) In any case where the Advisory Board has reported that there is, in its opinion, no sufficient cause for the detention of the person concerned, the State Government shall revoke the detention order and cause the person to be released forthwith.

Maximum period of detention.

13. The maximum period for which any person may be detained in pursuance of any detention order which has been confirmed under section 12 shall be twelve months from the date of detention.

Revocation of detention orders.

Ben. Act 1 of 1899.

14. (1) Without prejudice to the provisions of section 22 of the Bengal General Clauses Act, 1899, a detention order may at any time be revoked or modified by the State Government notwithstanding that the order has been made by an officer specified in sub-section (3) of section 3.

(2) The revocation or expiry of a detention order shall not bar the making of a fresh detention order under section 3 against the same person in any case where fresh facts have arisen after the date of revocation or expiry on which the State Government or an officer specified in sub-section (3) of section 3, as the case may be, is satisfied that such an order should be made.

Temporary release of persons detained.

15. (1) The State Government may at any time direct that any person detained in pursuance of a detention order may be released for any specified period either without conditions or upon such conditions specified in the direction as that person accepts, and may at any time cancel his release.

(2) In directing the release of any person under sub-section (1), the State Government may require him to enter into a bond with or without sureties for the due observance of the conditions specified in the direction.

(3) Any person released under sub-section (1) shall surrender himself at the time and place, and to the authority, specified in the order directing his release or cancelling his release, as the case may be.

(4) If any person fails without sufficient cause to surrender himself in the manner specified in sub-section (*3*), he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(*5*) If any person released under sub-section (*1*) fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to pay the penalty thereof.

Protection of action taken under the Act.

16. No suit or other legal proceeding shall lie against the State Government, and no suit, prosecution or other legal proceeding shall lie against any person, for anything in good faith done or intended to be done in pursuance of this Act.

V. V. GIRI,
President.
N. D. P. NAMBOODIRIPAD
Joint Secy. to the Govt. of India.

Reasons for the enactment

There is increasing anxiety over the continuing violent activities, in West Bengal, of the "Naxalites", other similar extremist groups, and anti-social elements operating with them. As the existing laws have been found to be inadequate for dealing with the situation, it is necessary to vest the State administration with powers to detain persons to prevent them from indulging in the aforesaid activities. It is, therefore, proposed to enact this Bill.

2. The Committee constituted under the proviso to sub-section (2) of section 3 of the West Bengal State Legislature (Delegation of Powers) Act, 1970 (17 of 1970), has been consulted before enactment of this measure as a President's Act.

L. P. SINGH,
Secy. to the Govt. of India,
Ministry of Home Affairs.

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